County of Los Angeles
CHIEF EXECUTIVE OFFICE
Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
http://ceo.lacounty.gov

WILLIAM T FUJIOKA
Chief Executive Officer

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To: Supervisor Mark Ridley-Thomas, Chairman
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

WASHINGTON, D.C. UPDATE ON FISCAL CLIFF LEGISLATION (H.R. 8)

Executive Summary

This memorandum contains a report, including items of interest to the County, on H.R. 8, a bill to avert the "fiscal cliff," which was passed by both houses of Congress on January 1, 2013, sending the bill to the President for his signature.

Fiscal Cliff

On January 1, 2013, the House passed, 257 to 167, H.R. 8, the American Taxpayer Relief Act, which is legislation to avert the "fiscal cliff," clearing the bill for the President's signature. Earlier in the day, the Senate passed the bill on an 89 to 8 vote. It averts most, but not all, of the "fiscal cliff" of major revenue increases and spending cuts which, otherwise, would take effect in January 2013 under current law. The bill's major provisions include making permanent most expiring Bush tax cuts; extending many small expiring tax provisions; providing a permanent "patch" for the alternative minimum tax; extending long-term Unemployment Insurance (UI) benefits through December 31, 2013; extending Farm Bill programs through September 30, 2013; delaying the imposition of across-the-board sequestration cuts until March 1, 2013; and maintaining current Medicare physician payment rates through December 31, 2013, which avoids a roughly 27 percent reduction in such rates. However, H.R. 8 does not extend the temporary reduction of Social Security payroll taxes from 6.2 percent to 4.2 percent.

The Congressional Budget Office (CBO) estimates that the bill will increase the Federal budget deficit by roughly $3.971 trillion over the next 10 years mainly because the bill would avert revenue increases and spending cuts which, otherwise, would take effect under current law. According to the Joint Committee on Taxation and CBO, the bill's tax provisions would result in a net 10-year revenue loss of roughly $3.915 trillion, counting roughly $277 billion in refundable tax credits which are counted as outlays (spending) in the Federal budget. In contrast, the bill's spending provisions have a far smaller impact ($56 billion) on increasing the Federal budget deficit. This is because most of its spending provisions, such as the long-term UI benefits, Medicare "doc fix," and two-month delay in sequestration cuts, increase spending for no more than one year, and the cost of the Medicare "doc fix" and postponed sequestration cuts are offset by corresponding cuts.

Provisions in H.R. 8 of particular interest to the County include:

- Medicaid Disproportionate Share Hospital (DSH) payments are reduced by an estimated $4.2 billion in Federal Fiscal Year (FFY) 2022. Under current law, as amended by H.R. 3630 (Public Law 112-096), which was enacted in February 2012, the Affordable Care Act's annual Medicaid DSH reductions, otherwise, would end in FFY 2021. The impact of this Medicaid DSH cut on the County cannot be determined at this time, and would depend largely on the yet to be determined Federal methodology for distributing the DSH cuts among states and on DSH hospitals' uncompensated care costs and Medicaid utilization rates in California in FFY 2022. As in H.R. 3630, the bill extends Medicaid DSH cuts for an additional year to help finance the cost of Medicare "doc fix."

- The two-month delay in the imposition of sequestration cuts to March 1, 2013 is financed by lowering the overall discretionary spending cap for FFY 2013 by $4 billion and for FFY 2014 by $8 billion, and by enabling more persons to convert their tax-deferred retirement plans to a Roth contributory plan, including public employees, such as County employees, who currently use tax-deferred 457 and 401(k) plans. The CBO estimates that such Roth conversions would increase Federal revenue by roughly $12.2 billion over 10 years. The issue of sequestration cuts will be addressed early this year as part of future Congressional action on FFY 2013 appropriations. Federal programs and activities currently are temporarily funded under a Continuing Resolution through March 27, 2013.

- Transitional Medical Assistance, which allows low-income families to maintain their Medicaid eligibility after their earned income increases, was extended for one year through December 31, 2013.

- A Commission on Long Term Care was established to develop a plan for establishing, implementing, and financing a comprehensive, coordinated, and high-quality long-term care system, which would include recommendations on the interaction between Medicaid, Medicare, and private insurance-funded long-term care services and on issues related to workers who provide long-term care services.

- The bill's extension of the Farm Bill includes an extension of the Supplemental Nutrition Assistance Program (SNAP) through September 30, 2013 with two relatively small funding changes: SNAP Employment and Training Program funding is cut from $90 million to $79 million in FFY 2013 while funding for the SNAP Nutrition Education Program is changed from $388 million in FFY 2012 to $285 million in FFY 2013, $401 million in FFY 2014, and $407 million in FFY 2015. However, future funding levels for these programs will be subject to change when Congress considers Farm Bill reauthorization legislation later this year.

- The adoption tax credit, which, otherwise, would have expired on December 31, 2012, is permanently extended.

We will continue to keep you advised.

WTF:RA
MR:MT:ma

c: All Department Heads
Legislative Strategist